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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Draft resolution submitted by the Chair

Question of American Samoa

The General Assembly,

Having considered the question of American Samoa,

Having examined the relevant chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples for 2016, related to American Samoa,[1]

Taking note of the working paper prepared by the Secretariat on American Samoa[2] and other relevant information,

Recognizing that all available options for self-determination of the Territory are valid as long as they are in accordance with the freely expressed wishes of the people of American Samoa and in conformity with the clearly defined principles contained in General Assembly resolutions 1514 (XV) of 14 December 1960, 1541 (XV) of 15 December 1960 and other resolutions of the Assembly,

Expressing concern that 56 years after the adoption of the Declaration on the Granting of Independence to Colonial Countries and Peoples,[3] there still remain 17 Non-Self-Governing Territories, including American Samoa,

Conscious of the importance of continuing the effective implementation of the Declaration, taking into account the target set by the United Nations to eradicate colonialism by 2020 and the plans of action for the Second[4] and Third International Decades for the Eradication of Colonialism,

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[1] *Official Records of the General Assembly, Seventy-first Session, Supplement No. 23* (A/71/23), chap. X.

[2] A/AC.109/2016/1.

[3] Resolution 1514 (XV).

[4] A/56/61, annex.

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Recognizing that the specific characteristics and the aspirations of the people of American Samoa require flexible, practical and innovative approaches to the options for self-determination, without any prejudice to territorial size, geographical location, size of population or natural resources,

Convinced that the wishes and aspirations of the people of the Territory should continue to guide the development of their future political status and that referendums, free and fair elections and other forms of popular consultation play an important role in ascertaining the wishes and aspirations of the people,

Acknowledging the outcome of the referendum held on 4 November 2014, in which the proposal to give the Fono, the Territory's legislature, the authority to override the Governor's veto was rejected, and welcoming the discussion opened in the Territory as to the way forward,

Concerned by the use and exploitation of the natural resources of the Non-Self-Governing Territories by the administering Powers for their benefit, by the use of the Territories as tax heavens to the detriment of the world economy and by the consequences of any economic activities of the administering Powers that are contrary to the interests of the people of the Territories, as well as to resolution 1514 (XV),

Convinced that any negotiations to determine the status of the Territory must take place with the active involvement and participation of the people of the Territory, under the auspices of the United Nations, on a case-by-case basis, and that the views of the people of American Samoa in respect of their right to self-determination should be ascertained,

Noting the continued cooperation of the Non-Self-Governing Territories at the local and regional levels, including participation in the work of regional organizations,

Mindful that, in order for the Special Committee to enhance its understanding of the political status of the people of American Samoa and to fulfil its mandate effectively, it is important for it to be apprised by the administering Power and to receive information from other appropriate sources, including the representatives of the Territory, concerning the wishes and aspirations of the people of the Territory,

Aware of the importance both to American Samoa and to the Special Committee of the participation of elected and appointed representatives of American Samoa in the work of the Committee,

Recognizing the need for the Special Committee to ensure that the appropriate bodies of the United Nations actively pursue a public awareness campaign aimed at assisting the people of American Samoa with their inalienable right to self-determination and in gaining a better understanding of the options for self-determination, on a case-by-case basis,

Mindful, in that connection, that the holding of regional seminars in the Caribbean and Pacific regions and at Headquarters, with the active participation of representatives of the Non-Self-Governing Territories, provides a helpful means for the Special Committee to fulfil its mandate and that the regional nature of the seminars, which alternate between the Caribbean and the Pacific, is a crucial element in the context of a United Nations programme for ascertaining the political status of the Territories,

Welcoming the Pacific regional seminar held by the Special Committee in Managua and hosted by the Government of Nicaragua from 31 May to 2 June 2016 as

a significant and forward-looking event, which enabled the participants to assess the progress made in the decolonization process and to review the existing working methods of the Committee and renew its momentum in implementing its historic task,

Recognizing the importance of the conclusions and recommendations adopted by the seminar, which are annexed to the report of the Special Committee[5] and which outline the findings of the seminar, including, especially, the way forward for the decolonization process within the context of the proclamation by the General Assembly of the period 2011-2020 as the Third International Decade for the Eradication of Colonialism,[6]

Noting with appreciation the contribution to the development of some Territories by the specialized agencies and other organizations of the United Nations system, in particular the Economic Commission for Latin America and the Caribbean, the Economic and Social Commission for Asia and the Pacific, the United Nations Development Programme and the World Food Programme, as well as regional institutions such as the Caribbean Development Bank, the Caribbean Community, the Organization of Eastern Caribbean States, the Pacific Islands Forum and the agencies of the Council of Regional Organizations in the Pacific,

Aware that, under United States law, the Secretary of the Interior takes administrative jurisdiction over American Samoa,[7]

Recalling the statement made by the representative of the Governor of American Samoa at the Caribbean regional seminar held in Managua from 19 to 21 May 2015 that, while the Territory enjoyed a great deal of self-government, its current legal status was seen as an anachronism that exposed the Territory to situations beyond its control and needed to be remedied,

Recalling also the statement made by the representative of the Governor of American Samoa at the 2015 Caribbean regional seminar, expressing concern that the Territory continued to get its authority from the President and the Department of the Interior of the administering Power, that the Territory had no representation in the federal Congress and that its Constitution needed to be approved by the Government of the administering Power,

Recalling further the position of the administering Power and the statements made by representatives of American Samoa at regional seminars inviting the Special Committee to send a visiting mission to the Territory,

Acknowledging the participation of a representation of American Samoa at the 2016 Pacific regional seminar,

Aware of the work of the Future Political Status Study Commission, completed in 2006, the release of its report, with recommendations, in January 2007 and the creation of the American Samoa Constitutional Review Committee, as well as the holding in June 2010 of the Territory's fourth Constitutional Convention,

Taking note of the decisions of the United States Court of Appeals for the District of Columbia Circuit, issued on 5 June and 2 October 2015, affirming the judgment of the United States District Court for the District of Columbia, which dismissed a lawsuit seeking a declaratory judgment that would have asserted that

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[5] *Official Records of the General Assembly, Seventy-first Session, Supplement No. 23* (A/71/23).

[6] See resolution 65/119.

[7] United States Congress, 1929 (48 U.S.C. Sec. 1661, 45 Stat. 1253), and Secretary's Order 2657, Department of the Interior, United States of America, 1951, as amended.

the citizenship clause of the Fourteenth Amendment to the Constitution of the United States extended to American Samoa, and taking note also of the pending decision by the Supreme Court of the United States on the petition for a writ of certiorari submitted in February 2016,

Acknowledging the indication by the territorial Government, including at the 2015 Caribbean regional seminar, that certain federal laws have had and continue to have a debilitating impact on the Territory's ability to achieve sustainable economic growth,

Aware that, in October 2015, the United States passed Public Law 114-61, providing an immediate incremental increase of $0.40 per hour in the transitional minimum wage for each industry in American Samoa, with additional increases occurring every three years on 30 September until the minimum wage is equal to that in the United States,

Aware also that American Samoa continues to be the only United States Territory to receive financial assistance from the administering Power for the operations of the territorial Government,

1. *Reaffirms* the inalienable right of the people of American Samoa to self-determination, in conformity with the Charter of the United Nations and with General Assembly resolution 1514 (XV), containing the Declaration on the Granting of Independence to Colonial Countries and Peoples;

2. *Also reaffirms* that, in the process of decolonization of American Samoa, there is no alternative to the principle of self-determination, which is also a fundamental human right, as recognized under the relevant human rights conventions;

3. *Further reaffirms* that it is ultimately for the people of American Samoa to determine freely their future political status in accordance with the relevant provisions of the Charter, the Declaration and the relevant resolutions of the General Assembly, and in that connection calls upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of their right to self-determination in conformity with the legitimate political status options, based on the principles clearly defined in Assembly resolution 1541 (XV) and other relevant resolutions and decisions;

4. *Welcomes* the work of the territorial Government with respect to moving forward on political status, local autonomy and self-governance issues with a view to making political and economic progress, and also welcomes the establishment in April 2016 of the Office of Political Status, Constitutional Review and Federal Relations;

5. *Recalls* the indication by the territorial Government that American Samoa should remain on the list of Non-Self-Governing Territories, under the purview of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, until such time as its people have exercised their right to self-determination;

6. *Expresses its appreciation* for the invitation extended in 2015 by the Governor of American Samoa to the Special Committee to send a visiting mission to the Territory, calls upon the administering Power to facilitate such a mission if the territorial Government so desires, and requests the Chair of the Special Committee to take all the steps necessary to that end;

7. *Requests* the administering Power to assist the Territory by facilitating its work concerning a public awareness programme, consistent with Article 73 *b* of the Charter, and in that regard calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested;

8. *Stresses* the importance of the Special Committee being apprised of the views and wishes of the people of American Samoa and enhancing its understanding of their conditions, including the nature and scope of the existing political and constitutional arrangements between American Samoa and the administering Power;

9. *Calls upon* the administering Power to participate in and cooperate fully with the work of the Special Committee in order to implement the provisions of Article 73 *e* of the Charter and the Declaration and in order to advise the Committee on the implementation of the provisions under Article 73 *b* of the Charter on efforts to promote self-government in American Samoa, and encourages the administering Power to facilitate visiting and special missions to the Territory;

10. *Reaffirms* the responsibility of the administering Power under the Charter to promote the economic and social development and to preserve the cultural identity of the Territory, and requests the administering Power to take steps to enlist and make effective use of all possible assistance, on both a bilateral and a multilateral basis, in the strengthening of the economies of the Territory;

11. *Takes into account* the 2030 Agenda for Sustainable Development, including the Sustainable Development Goals,[8] stresses the importance of fostering the economic and social sustainable development of the Territory by promoting sustained, inclusive and equitable economic growth, creating greater opportunities for all, reducing inequalities, raising basic standards of living, fostering equitable social development and inclusion and promoting the integrated and sustainable management of natural resources and ecosystems that supports, inter alia, economic, social and human development, while facilitating ecosystem conservation, regeneration, restoration and resilience in the face of new and emerging challenges, and strongly urges the administering Power to refrain from undertaking any kind of illicit, harmful and unproductive activities, including the use of the Territory as a tax haven, that are not aligned with the interest of the people of the Territory;

12. *Requests* the Territory and the administering Power to take all measures necessary to protect and conserve the environment of the Territory against any degradation, and once again requests the specialized agencies concerned to monitor environmental conditions in the Territory and to provide assistance to the Territory, consistent with their prevailing rules of procedure;

13. *Requests* the Special Committee to continue to examine the question of American Samoa and to report thereon to the General Assembly at its seventy-second session and on the implementation of the present resolution.

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[8] Resolution 70/1.